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## **Centers for Medicare & Medicaid Services**

### **42 CFR Parts 412, 413, and 495**

**[CMS-0044-CN]**

**RIN 0938-AQ84**

### **Medicare and Medicaid Programs; Electronic Health Record Incentive Program-- Stage 2; Corrections**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects technical errors and typographical errors in the proposed rule entitled "Medicare and Medicaid Programs; Electronic Health Record Incentive Program--Stage 2" which appeared in the March 7, 2012, Federal Register.

#### **FOR FURTHER INFORMATION CONTACT:**

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#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In FR Doc. 2012-4443 of March 7, 2012 (77 FR 13698), the proposed rule entitled "Medicare and Medicaid Programs; Electronic Health Record Incentive Program--Stage 2" there were a number of technical errors and typographical errors that are identified and corrected in the Correction of Errors section.

##### **II. Summary of Errors**

###### **A. Summary of Errors in the Preamble**

On page 13698, in the "For Further Information Contact" section we made an error in the contact listed for clinical quality measures issues.

On pages 13700 and 13745, in our discussion of reporting on clinical quality measures, we made an error in referencing the name of a national committee.

On pages 13704 and 13731, in our discussion of the objective for making patient health information available electronically, we inadvertently omitted the term "transmit."

On pages 13706 and 13728, in our reference to the Office of the National Coordinator for Health Information Technology (ONC) criteria for certification of EHR technologies, we inadvertently mischaracterized the criteria as the Stage 2 criteria instead of 2014 certification criteria.

On page 13707, in our discussion regarding eligible professionals (EPs) who practice in multiple locations, we inadvertently omitted the timeframe by which the determination is made on whether a practice/location is equipped with Certified EHR Technology.

On page 13711, in our solicitation of comments regarding the variations among facility types for an electronic prescribing measure, we inadvertently stated an erroneous threshold percentage.

On page 13723, we used the incorrect term to describe when health information should be shared in context of transitions of care and referrals. In our discussion in the preamble, we used in one instance the term "discharged" instead of "transitioned."

On page 13725, in our listing of the objectives that fall under public health, we made technical errors in our description of the objective to have the capability to report to cancer registries.

On page 13746, in Table 6, we erroneously included an additional measure steward and its contact information.

On pages 13749 through 13754 in Table 8, we made errors in referencing a national quality assurance program.

On pages 13760 through 13763, in Table 9, we incorrectly listed some of the measure stewards and their respective contact information.

On pages 13743, 13759, 13766, 13769, and 13803 through 13812, we made technical and typographical errors, which include the spelling out of acronyms, errors in the order of bulleted text, the omission of bullets, regulatory citations, and the number of section headings.

#### B. Summary of Errors in the Regulations Text

On page 13821, in §495.6(l)(16)(ii), we made an error in the regulations text for the measure for the objective for electronic medication administration record (eMAR). In addition, in §495.6(m)(1)(iii) we inadvertently omitted the term "reporting period".

On page 13816, in §495.6(d)(8)(ii)(C), contains an incomplete reference to another section of the regulation.

On page 13817 we made the following errors:

- In §495.6(f)(1)(ii)(B) and §495.6(f)(7)(i)(E)(2), we used the word "Beginning" when referring to regulations that would apply to only 1 year; therefore, we are replacing "Beginning" with "For".

- In §495.6(f)(7)(ii)(B) and §495.6(f)(7)(ii)(C), we only included the new measure in the regulation text not both the existing measure and the new measure as indicated in the preamble. The regulation text is corrected to include both the existing and new measure.

- In §495.6(h)(2)(ii)(B), we included a duplicative word in the regulation text. The text is revised to remove the duplicative word.

On page 13818, in §495.6(j)(6)(ii)(B) and on page 13820 in §495.6 (l)(5)(ii)(B),

the phrase used in the regulation text for the measure does not adequately reflect the discussion in the preamble. The phrase "has enabled the functionality" is replaced with "has enabled and implemented the functionality".

### **III. Correction of Errors**

In FR Doc. 2012-4443 of March 7, 2012 (77 FR 13698), make the following corrections:

#### **A. Correction of Errors in the Preamble**

1. On page 13698, third column, first partial paragraph, lines 1 through 2, the phrase, "or Maria Durham, (410) 786-6978," is removed.
2. On page 13700, third column, first full paragraph, lines 13 through 15, the phrase "National Council for Quality Assurance (NCQA) for medical home accreditation" is corrected to read "National Committee for Quality Assurance (NCQA) for medical home recognition".
3. On pages 13745, first column, last two lines through the second column, first partial paragraph, line 1, the phrase "National Council for Quality Assurance (NCQA) for medical home accreditation" is corrected to read "National Committee for Quality Assurance (NCQA) for medical home recognition".
4. On page 13704, third column, first full paragraph, line 4, the phrase "view online and download" is corrected to read "view online, download, and transmit."
5. On page 13706, first column, second paragraph, lines 7 through 9, the phrase "included in the ONC EHR certification criteria as finalized for Stage 2 of meaningful use." is corrected to read "included in the ONC 2014 EHR certification criteria."
6. On page 13707, first column, first full paragraph, lines 11 through 15, the

sentence "We have also received requests for clarification on what it means for a practice/location to be equipped with Certified EHR Technology." is corrected to read "We have also received requests for clarification on what it means for a practice/location to be equipped with Certified EHR Technology at the beginning of the EHR reporting period."

7. On page 13711, second column, first partial paragraph, line 1, the phrase "50 percent" is corrected to read "65 percent".

8. On page 13723, second column, seventh paragraph, line 5, the term "discharged" is corrected to read "transitioned".

9. On page 13725, first column, fourth bulleted paragraph, line 3, the phrase "where authorized," is corrected to read "except where prohibited,".

10. On page 13728, second column--

a. Third paragraph, line 9, the phrase "standards required under Stage 2" is corrected to read "standards for Certified EHR Technology".

b. Last paragraph, line 10, the phrase "standards required under Stage 2" is corrected to read "standards for Certified EHR Technology".

11. On page 13731, first column, first full paragraph, line 7, the phrase "view and download" is corrected to read "view online, download, and transmit".

12. On page 13743, second column, first partial paragraph, line 14, "EHs/CAHs" is corrected to read "eligible hospitals and CAHs".

13. On page 13746 in Table 6 Potential Core Clinical Quality Measure Set to be Reported by Eligible Professionals Beginning in CY 2014, Column 3 (Clinical Quality Measure Steward & Contact Information) for the following entry is corrected to read as

follows:

Measure Number	Clinical Quality Measure Title & Description	Clinical Quality Measure Steward & Contact Information	Domain
TBD	Title: Closing the referral loop: receipt of specialist report Description: Percentage of patients regardless of age with a referral from a primary care provider for whom a report from the provider to whom the patient was referred was received by the referring provider.	Centers for Medicare and Medicaid Services (CMS) 1-888-734-6433 or <a href="http://questions.cms.hhs.gov/app/ask/p/21,26,1139">http://questions.cms.hhs.gov/app/ask/p/21,26,1139</a>	Care Coordination

14. On pages 13749 through 13754 in Table 8 – Clinical Quality Measures

Proposed For Medicare and Medicaid Eligible Professionals Beginning With CY 2014, column 4 (Other quality measure programs that use the same measure) is corrected for the following entries:

**TABLE 8--CLINICAL QUALITY MEASURES PROPOSED FOR MEDICARE AND MEDICAID ELIGIBLE PROFESSIONALS BEGINNING WITH CY 2014**

Measure Number	Other Quality Measure Programs that use the Same Measure**
NQF 0004	EHR PQRS, HEDIS, State use, ACA 2701, NCQA-PCMH Recognition
NQF 0014	EHR PQRS, NCQA-PCMH Recognition
NQF 0031	EHR PQRS, ACO, Group Reporting PQRS, ACA 2701, HEDIS, State use, NCQA-PCMH Recognition
NQF 0032	EHR PQRS, ACA 2701, HEDIS, State use, NCQA-PCMH Recognition, UDS
NQF 0033	EHR PQRS, CHIPRA, ACA 2701, HEDIS, State use, NCQA-PCMH Recognition
NQF 0034	EHR PQRS, ACO, Group Reporting PQRS, NCQA-PCMH Recognition
NQF 0043	EHR PQRS, ACO, Group Reporting PQRS, NCQA-PCMH Recognition
NQF 0045	PQRS, NCQA-PCMH Recognition
NQF 0046	PQRS, NCQA-PCMH Recognition
NQF 0069	PQRS, NCQA-PCMH Recognition
NQF 0070	EHR PQRS, NCQA-PCMH Recognition
NQF 0081	EHR PQRS, Group Reporting PQRS, NCQA-PCMH Recognition
NQF 0097	ACO, Group Reporting PQRS, NCQA-PCMH Recognition
NQF 0110	NCQA-PCMH Recognition
NQF 0271	PQRS, NCQA-PCMH Recognition
NQF 0399	PQRS, NCQA-PCMH Recognition
NQF 0400	PQRS, NCQA-PCMH Recognition
NQF 0401	PQRS, NCQA-PCMH Recognition
NQF 0405	PQRS, NCQA-PCMH Recognition
NQF 0406	PQRS, NCQA-PCMH Recognition

15. On page 13759, first column, third paragraph, lines 10 through 16, the

bulleted list that begins "● Clinical Process/Effectiveness." and ends "● Population & Public Health." is corrected to read as follows:

- "● Patient & Family Engagement.
- Patient Safety.
- Care Coordination.
- Population & Public Health.
- Efficient Use of Healthcare Resources.
- Clinical Process/Effectiveness."

16. On page 13760 through 13763, in Table 9 – Clinical Quality Measures

Proposed for Eligible Hospitals and Critical Access Hospitals Beginning With FY 2014  
the Measure Steward and Contact Information , column 3 (Measure steward and contact information) is corrected for the following entries:

**TABLE 9—CLINICAL QUALITY MEASURES PROPOSED FOR  
ELIGIBLE HOSPITALS AND CRITICAL ACCESS HOSPITALS BEGINNING  
WITH FY 2014**

<b>NQF #</b>	<b>Measure steward and contact information</b>
0480	The Joint Commission ( <a href="http://www.jointcommission.org">http://www.jointcommission.org</a> -
0495	CMS/Oklahoma Foundation for Medical Quality (OFMQ) Qualitynet.org and click on "Questions & Answers"
0497	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0132	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0142	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0137	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0160	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0164	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0163	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0639	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0148	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0147	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0527	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0528	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0529	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0300	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0301	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0453	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0136	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0284	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"

<b>NQF #</b>	<b>Measure steward and contact information</b>
0218	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
0496	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
1653	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"
1659	CMS/OFMQ Qualitynet.org and click on "Questions & Answers"

17. On page 13766, second column, last paragraph, last line, the reference "\$495.10" is corrected to read "\$495.8".

18. On page 13769, second column--

a. First full paragraph, line 1, the phrase "Except as provided" is corrected to read "• Except as provided".

b. Second full paragraph, line 1, the phrase "We would create" is corrected to read "• We would create".

19. On page 13803, third column, after the first partial paragraph, the section heading, "4. Medicare Incentive Program Costs" is corrected to read "3. Medicare Incentive Program Costs".

20. On page 13808, top half of the page following Table 28, second column, after the first partial paragraph, the section heading, "5. Medicaid Incentive Program Costs" is corrected to read "4. Medicaid Incentive Program Costs".

21. On page 13810, bottom half of the page, after Table 34, first column, before the first paragraph, the section heading "6. Benefits for All EPs and All Eligible Hospitals" is corrected to read "5. Benefits for All EPs and All Eligible Hospitals".

22. On page 13811--

a. First column, after the first partial paragraph, the section heading, "7. Benefits to Society" is corrected to read "6. Benefits to Society".

b. Second column, after first partial paragraph, the section heading, "8. General



Considerations" is corrected to read "7. General Considerations".

c. Third column, before the last full paragraph, the section heading, "9. Summary" is corrected to read "8. Summary".

23. On page 13812, bottom half of the page, after Table 36, first column, before the first full paragraph, the section heading, "10. Explanation of Benefits and Savings Calculations" is corrected to read "9. Explanation of Benefits and Savings Calculations".

#### B. Correction of Errors in the Regulations Text

1. On page 13816, second column, seventh full paragraph (§495.6(d)(8)(ii)(C)), line 2, the reference "paragraph (d)(8)(ii)(B)" is corrected to read "paragraph (d)(8)(ii)(B)(1)".

2. On page 13817,

a. First column,

(1) Fourth full paragraph (§495.6(f)(1)(ii)(B)), line 1, the phrase "Beginning 2013, subject to" is corrected to read "For 2013, subject to".

(2) Sixth full paragraph (§495.6(f)(7)(i)(E)(2)), line 1, "Beginning 2013, plot and display" is corrected to read "For 2013, plot and display".

(3) Seventh full paragraph (§495.6(f)(7)(ii)(B)), the paragraph beginning with the phrase "For 2013, subject to paragraph (c)" and ending with the phrase "recorded as structured data." is corrected to read as follows:

"(B) For 2013-- (1) Subject to paragraph (c) of this section, more than 50 percent of all unique patients admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) during the EHR reporting period have blood pressure (for patients age 3 and over only) and height/length and weight (for all ages) recorded as

structured data; or

(2) The measure specified in paragraph (f)(7)(ii)(A) of this section."

(4) Eighth full paragraph (§495.6(f)(7)(ii)(C)), line 2, the phrase "in paragraph (f)(7)(ii)(B)" is corrected to read "in paragraph (f)(7)(ii)(B)(1)".

b. Third column, sixth full paragraph (§495.6(h)(2)(ii)(B)), line 14, the phrase "must meet the remaining the" is corrected to read "must meet the remaining".

3. On page 13818, second column, last paragraph (§495.6(j)(6)(ii)(B)), the phrase "has enabled the" is corrected to read "has enabled and implemented the".

4. On page 13820, second column, ninth paragraph (§495.6(l)(5)(ii)(B)), the phrase "has enabled the" is corrected to read "has enabled and implemented the".

5. On page 13821, third column—

a. First full paragraph (§495.6(l)(16)(ii)), lines 3 through 6, the sentence "(ii) Measure. eMAR is implemented and in use for the entire EHR reporting period in at least one ward/unit of the hospital." is corrected to read "(ii) Measure. More than 10 percent of medication orders created by authorized providers of the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) during the EHR reporting period are tracked using eMAR."

b. Fifth full paragraph (§495.6(m)(1)(iii)), last line, the phrase "the EHR" is corrected to read "the EHR reporting period."

CMS-0044-CN

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: April 12, 2012

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**Jennifer M. Cannistra,**

Executive Secretary to the

Department.

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